This Information Should Be Directed to the Management Staff of Your Agency

Bureau Talk

Missouri Department of Health and Senior Services
Bureau of Home Care and Rehabilitative Standards

Volume 03-1 – April 2003

New Web Page Available to Employers

The Family Care Safety Registry (FCSR) recently made a new web page available to employers with Internet access who want to find out whether an individual is already registered with FSCR. Employers may go to https://dhssweb02.dhss.state.mo.us/FCSR/FCSRweb.dll, enter the individual's social security number, and the requestor will be told whether the individual is registered or not. If the individual is already registered the employer may contact the FCSR using the toll-free telephone number, or mail or fax to request the background screening.

The FCSR, which recently celebrated its second anniversary in operation on January 1st, is a service of the Department of Health and Senior Services that allows families and other employers to obtain background screening information maintained by various state agencies from a single source. Families and other employers can use the toll-free access line, fax or mail to request a background screening at no cost on a caregiver already registered with the FCSR. The FCSR maintains a database of caregivers, including individuals employed by home health and hospice agencies, in-home service providers under contract with the Department of Health and Senior Services, long term care providers facilities, licensed and licensed exempt child-care providers and child care homes, foster parents and those providing services to the physically or mentally disabled. Over the last two years, the FCSR registered over 150,000 caregivers and responded to over 100,000 requests for a background screening.

For more information, contact the FCSR using the toll-free access line, 1-866-422-6872, available 7:00 a.m. to 6:00 p.m., Monday through Friday or visit the website, http://www.dhss.state.mo.us/FCSR/.

Hospice Volunteer Hours

We recently received some clarification from the Centers for Medicare and Medicaid Services (CMS) regarding the volunteer hours. The Federal Register states "a hospice must document and maintain a volunteer staff sufficient to provide administrative or direct patient care in the amount that, at a minimum, equals 5 percent of the total patient care hours by all paid hospice employees and contract staff". The clarification states that the preamble to the final hospice regulations states the cost savings achieved through the use of hospice volunteers is computed from the time spent in administrative support or direct patient care activities. The hospice training of volunteers would not be included in either of those activities. This clarification indicates volunteer orientation hours and in-service hours cannot be used when calculating the Medicare cost savings achieved through the use of hospice volunteers.

Published by:
Bureau of Home Care
and Rehabilitative Standards

Managing Editor: Linda Grotewiel
Editor: Debra Kempker

www.dhss.state.mo.us

Per our state hospice regulation, the explanatory statements state you **can** use direct patient care hours and training hours when calculating volunteer hours **however**, if you are a Medicare provider you will need to meet the Medicare requirements for this regulation.

Home Health

As stated at 484.55 (c), a comprehensive assessment must include a review of all medication the patient is currently using in order to identify any potential adverse effects and drug reactions, including ineffective drug therapy, significant side effects, significant drug interactions, duplicate drug therapy, and noncompliance with drug therapy. Medication reviews must be completed and documented at initial, recertification, resumption of care and at discharge. Agencies should have policies for how medications will be tracked and updated between the required review updates.

Criminal Background Checks

The question was recently raised whether a home health or hospice agency could hire someone with a felony charge after a specified number of years. The state law under Chapter 660 does not have a time frame but rather is all inclusive of the crimes for which you cannot be employed (see Section 660.317.6.). Remember, a person found guilty of a crime, which if committed in Missouri would be a class A or B felony violation, cannot be employed by a home health or hospice.

Web Page

Debbie Kempker with the bureau has been working diligently to update the bureau web page. Most of the appropriate links are now working and information about home health, hospice, OPT, and CORF agencies is now available. In addition, several of the latest issues of the Bureau Talk can be viewed. Please visit our web page at http://www.dhss.state.mo.us/Home_Health/ (be sure to type the underline mark between Home and Health when typing the web address). We will continue to add information to our website so you may want to check it often.

Notifying the Bureau of Changes, Expansion, Branch and Extension Requests

Our bureau must be notified in writing, on agency letterhead, of any changes that occur. This would include changes in administrator, address, telephone and fax number, etc. After the request is received, the bureau will forward you any additional paperwork that might be required for the request.

If you are requesting an extension to the geographic territory or a branch location, these must be **approved prior** to accepting patients.

Extension sites for OPT must be approved by the bureau.

License Applications

We continue to have a great many problems with proper completion of applications for licensure. We **cannot** issue a license until all the correct information is received. The license will **not** be backdated but issued on the date all needed information has been received in our office. For Medicare certified providers, a lapse in your license could affect your Medicare provider number.

Any changes must be submitted in writing and not merely indicated on the application form.

Home Health Quality Initiative (HHQI)

On February 20th, HHS Secretary Tommy Thompson announced a new home health quality initiative to help people who rely on Medicare and Medicaid programs and their family members find the best home health agency for their needs. The initiative reflects the administration's continued commitment to improving the quality of health care in all aspects of the Medicare and Medicaid programs.

We are happy that Missouri has been chosen as one of the eight states to begin the first phase of the home health quality initiative this spring. CMS will begin publishing the quality information about home health agencies in these eight states to help make people aware of how performance differs across agencies and to help stimulate home health agency quality improvement.

The information will be available in newspapers in eight states and online at http://www.medicare.gov and will be promoted through CMS's local Quality Improvement Organization (QIO) the MissouriPRO.

A key part of the initiative is the public reporting of 11 quality measures. These are a subset of the 41 OASIS outcome measures that have been used by home health agencies since 1999.

During the year, CMS will refine and expand the initiative to include quality information for home health agencies in all 50 states in the fall of 2003.

The eleven quality measures that have been selected for Phase 1 include:

- Patients who get better at getting dressed
- Patients who get better at bathing
- Patients who stay the same at bathing
- Patients who get better getting to and from the toilet
- Patients who get better at walking or moving around
- Patients who get better at getting in and out of bed
- Patients who get better at taking their medicines correctly (by mouth)
- Patients who are confused less often
- Patients who have less pain when moving around
- Patients who had to be admitted to the hospital
- Patients who need urgent, unplanned medical care

The role of the state agency will continue to be survey activity to ensure that home health agencies meet regulatory standards. QIOs seek to promote improvement and excellence in care. The QIO mission does not include inspection or regulatory enforcement.

The MissouriPRO will be providing education to providers on the Quality Initiative. Watch your mail for notices of upcoming workshops.

Continue to call the bureau regarding any survey issues. Questions regarding the HHQI should be directed to Barbara Sharpe with the MissouriPRO at 800-735-6776.

OASIS Coordinator

Please remember that Mike DeClue has assumed the role of OASIS Coordinator effective November 1, 2002. Mike can be reached at 573/751-6308 or by e-mail at declum@dhss.state.mo.us. Melissa Hall is assisting Mike with OASIS and can be reached at 573/522-8421.

HIPAA

Several questions have been raised regarding business associate agreements and release of protected health information (PHI) to surveyors under the HIPAA Privacy Rule.

The Standards for Privacy of Individually Identifiable Health Information, otherwise known as the Health Portability and Accountability Act or "HIPAA Privacy Rule" (*45 CFR Parts 160 and 164*) guarantee certain privacy rights to individuals. The HIPAA Privacy Rule provides that PHI may be used and disclosed without the authorization of the subject of that information to the extent a law requires the production of that information *(see 45 CFR 164.512(a)*). The HIPAA Privacy Rule also provides that PHI may be used and disclosed to Health Oversight Agencies without the authorization of the subject of that information for health oversight activities that are authorized by law. Examples are inspection, licensure and other activities necessary for the appropriate oversight of entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards (s*ee 45 CFR 164.512(d)*).

As such, an individual's authorization is not required for information supplied to government regulatory programs that qualify as health oversight agencies needing PHI to determine compliance with program standards as part of that oversight agency's appropriate oversight of entities subject to that program's regulation. A Health Oversight Agency (like those that conduct survey and certification activities) must limit its use and disclosures of PHI to the minimum necessary to accomplish the program's regulatory purpose, and may not use records obtained under this exception to investigate the individual patient whose records they have obtained. Disclosures made pursuant to a law that mandates the production of information are not subject to any limitations under the HIPAA Privacy Rule so long as the disclosure complies with and is limited to the relevant requirements of that law.

To the extent that the information sought for survey and certification work is responsive to a law that requires the production of that information, or to the extent the information sought by a health oversight agency for health oversight activities authorized by law, the surveyed entity does not need an authorization prior to releasing the necessary PHI to the SAs. Nor do surveyed entities need to execute a business associate agreement with the SAs prior to releasing PHI as SAs are not business associates of the surveyed entities under the HIPAA Privacy Rule definition of "business associate." ♦

Branch Identification Numbers

CMS recently began assigning identification numbers to every existing branch of a parent home health agency and subunit. The identification system is being implemented nationally and will uniquely identify every branch of every HHA certified to participate in the Medicare home health program. It will also link the parent or subunit to the branch.

This identification number is to be used on OASIS item MOO16 (Branch ID) when an assessment is done on a patient by a qualified staff of a branch location.

Each agency should have received their branch identifiers. Currently this OASIS data item is optional and can reflect a branch identification code that is defined by the HHA. Changes will be issued to the OASIS completion instructions shortly that require the completion of this data item using the unique Federally assigned branch identification number. ♦